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JUL 12 2001

In re Application of
Barry M. Libin
Application No. 09/224,781
Filed: January 4, 1999
Attorney Docket No. 1059-007

**OFFICE OF PETITIONS
A/C PATENTS**

DECISION ON PETITION

This is a decision on the Request for Withdrawal of Abandonment, pursuant to 37 CFR 1.181(a) filed June 4, 2001, and the petition under 37 CFR 1.137(b) filed June 25, 2001.

The petition under 37 CFR 1.181(a) is GRANTED.

The petition under 37 CFR 1.137(b) is MOOT.

This application was held abandoned on November 6, 2000, because it was believed that the "Amendment" was not received in response to the non-final Office action, mailed October 5, 2000, which set an extendable statutory period for reply of one month. Petitioner was advised of the above-cited application's abandonment by a Notice of Abandonment mailed May 25, 2001.

Petitioner maintains that the Amendment was deposited with the United States Postal Service on November 6, 2000. As evidence of the same, petitioner provided a copy of the Amendment with a copy of the postcard receipt for the Amendment date stamped November 13, 2000, by the United States Patent and Trademark Office receipt. The Amendment contained a certificate of mailing dated November 6, 2000. Based on the facts as stated in the instant petition, and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed; the holding of abandonment is, therefore, withdrawn as of the mailing date of this decision.

Because the holding of abandonment is withdrawn with mailing of this decision, the petition filed on 37 CFR 1.137(b) filed June 25, 2001, is rendered moot. As the petition under 37 CFR 1.137(b) is moot and there is no fee associated with a petition to withdraw the holding of abandonment, petitioner will be refunded the petition fee of \$620.00 in due course.

The application is being forward to Technology Center 1600 for review of Amendment filed originally mailed November 6, 2000.

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Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (703) 305-0010.



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